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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,521	12/05/2003	Richard Floyd Percy	16638-US	2404

*7590 10/05/2004

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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,521

Applicant(s)PERCY ET AL. **Examiner**

Nathan S Mammen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/05/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, 9, 11, 18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,085,509 to Plamper et al.

The Plamper '509 patent discloses an apparatus comprising a grass mower having a cutting unit (col. 2, lines 1-3) and a grass catcher (10) positioned adjacent the cutting unit. The grass catcher has a pair of side panels and upper and lower panels (30). The grass catcher also comprises a retaining structure (20) integrally formed with the lower panel adjacent the opening. A reinforcing member (40) is inserted through the at least one retaining structure.

Regarding claims 2-5, 7, 9, 11, 18, 20-22: The reinforcing member (40) is generally cylindrical. The grass catcher comprises three retaining structures (20) formed integrally with the lower panel (see Fig. 2). The retaining structure is a channel/passage. The reinforcing member is at least partially exposed facing upwardly (Fig. 3). The channel/passage forms an access hole through which the reinforcing member is inserted. The internal dimensions of the retaining structure are not larger than the outer cross sectional dimension of the reinforcing member. The integral retaining structure (20) is the only structure holding the reinforcing member in place.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,509 to Plamper et al.

The Plamper '509 patent discloses the claimed invention, as stated in paragraph 2 above, except for explicitly stating that the reinforcing member is metal or that the grass mower is a reel-type mower. However, the Plamper '509 patent does speak of welding the reinforcing member; therefore, it appears to be inherent that the reinforcing member is metal. The Plamper '509 patent also teaches that "[o]ther mowers and lawn and garden equipment could be substituted" for the preferred device, a rear drive lawn mower. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the Plamper '509 apparatus on a reel-type mower.

5. Claims 12- 14, 16-17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,509 to Plamper et al. in view of U.S. Patent No. 4,149,363 to Woelffer et al.

The Plamper '509 patent anticipates or renders obvious the claimed invention, as stated in paragraphs 2 and 4 above, except for the retaining structure being constructed of plastic. The Woelffer '363 patent teaches that it is known in the art to construct a grass catcher retaining structure from plastic (col. 2, lines 44-46). It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to construct the grass catcher of the Plamper '509 patent with the plastic material taught by the Woelffer '363 patent in order to provide an alternative material to make the retaining structure easier to manufacture.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,509 to Plamper et al in view of U.S. Patent No. 6,155,034 to Velke et al.

The Plamper '509 patent discloses the claimed invention, as stated in paragraph 2 above, except for the retaining structure being an off-set structure. The Velke '034 patent teaches that it is known in the art to provide a grass catcher retaining structure in an off-set location from the main body of the grass catcher. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the grass catcher retaining structure of the Plamper '509 patent with the off-set arrangement as taught by the Velke '034 patent, in order to enable the grass catcher to be positioned in an optimum location relative to the mower.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,509 to Plamper et al. in view of U.S. Patent No. 4,149,363 to Woelffer et al., as applied to claim 12 above, and further in view of U.S. Patent No. 6,155,034 to Velke et al.

The combination of the Plamper '509 and Woelffer '363 patents discloses the claimed invention, as stated in paragraph 5 above, except for the retaining structure being an off-set structure. The Velke '034 patent teaches that it is known in the art to provide a grass catcher retaining structure in an off-set location from the main body of the grass catcher. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the grass catcher retaining structure of the combination of the Plamper '509 and Woelffer '363

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patents with the off-set arrangement as taught by the Velke '034 patent, in order to enable the grass catcher to be positioned in an optimum location relative to the mower.

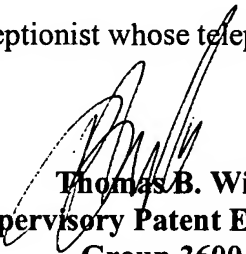
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
9/27/04

Nathan S. Mammen